IN THE HIGH COURT OF JUDICATURE AT BOMBAY

O. O. C. J.

WRIT PETITION NO.1315 OF 2006

Khairulla Hasanali Pathan ..Petitioner.

Vs.

Godrej & Boyce Mfg. Co. Ltd. ..Respondent.

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Mr. P.M. Patel for the Petitioner.

Mr. Bharat Goyal with Mrs. Sanika Deshpande i/b Haresh Mehta & Co. for the Respondent.

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CORAM: **DR. D.Y. CHANDRACHUD, J.**

22nd January, 2007.

P.C. :

The Petitioner was charge sheeted for misconduct and a disciplinary enquiry was held. The charge of misconduct was that the Petitioner had remained absent from duty from 1st June, 1986 until 2nd December, 1986 without sanctioned leave. The Labour Court held that the charge of misconduct was duly established. However, despite this finding the Court came to the conclusion that the punishment of dismissal was disproportionate and not justified since the workman was in service over a long period of time since 1960. The past service record according to the Labour Court showed that the workman had remained absent on several occasions and some minor punishments were imposed on earlier

occasions. On this finding, the Labour Court granted an amount of Rs.50,000/- as and by way of compensation to the workman. The workman attained the age of superannuation in 1996 and reinstatement was therefore not possible.

The workman has challenged the order of the Labour Court in these proceedings under Article 226. Since the management has not questioned the order of the Labour Court, it is not appropriate for this Court to enter any finding on whether the Labour Court was justified in holding that the punishment of dismissal from service for the proved act of misconduct was disproportionate. However, the facts as they stand establish that this is a case where the workman had remained continuously absent from 1st June, 1986. The finding of misconduct has been held to be established. That aspect is not challenged in the submissions before the Court. The only submission that has been urged is that the Labour Court ought not to have granted only an amount of Rs.50,000/- and since the workman who had been dismissed on 9th June, 1988 had lost approximately 8 years of service until his superannuation in 1996 some component of backwages ought to have been granted. The compensation of Rs.50,000/- as has been pointed out on behalf of the Respondent

works out to approximately 18 months' salary, the last drawn salary of the workman having been Rs.2,800/- per month. Having regard to the nature of the misconduct, it cannot be said by any stretch of imagination that the approach of the Labour Court in not granting a higher amount of compensation would warrant interference under Article 226. Having regard to the proved misconduct, no case for interference has been made out. The Petition is accordingly dismissed.